

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Licensing and Regulatory Affairs

Bureau name:

Bureau of Construction Codes

Name of person filling out RIS:

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Rule Set Information:

ARD assigned rule set number:

2019-126 LR

Title of proposed rule set:

Board of Mechanical Rules

Comparison of Rule(s) to Federal/State/Association Standard

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

There are no federal rules or standards that are set by a state or national licensing agency or accreditation association.

A. Are these rules required by state law or federal mandate?

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. The Skilled Trades Regulations rules are required by state law 2016 PA 407. There are no federal mandates.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. These rules do not exceed a federal standard.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

While the current rules are being rescinded, they are being recodified and the proposed rules are less restrictive than the bordering states of Ohio and Illinois. Ohio is more stringent, they have to be a United States citizen or a legal alien, must provide proof of being a legal alien, either have been a tradesperson in the type of licensed trade for which the application is filed for not less than five years immediately prior to the date the application is filed, and carry a minimum \$500,000 contractor liability coverage. Dates of employment must have a start and end month, day, and year to verify 5 years of working experience in that trade, with no breaks in the 5 year history immediately prior to completing the application. Mechanics must be able to show the last 5 years as a tradesperson they were working under a licensed contractor on projects that required a permit. They must also attach W-2's and at least one permit for each of the last 5 years and provide the license number of the contractor they worked under. In Illinois, they must provide successful completion of the most recent version of ICC Commercial Mechanical Code Inspector examination, or evidence of current certification by the council as a Mechanical Code Official, or a Master Code Professional and written certification of at least 4,000 hours in reviews inspection, design and construction. Unable to find licensing requirements for Wisconsin and Indiana.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. The rules do not exceed standards in the surrounding states.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. There are no laws, rules, or other legal requirements that duplicate, overlap, or conflict with the proposed rules.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. There are no federal, state, or local laws applicable to the same activity or subject matter.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, provide a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. There are no federal rules or standards that regulate construction codes.

5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, provide either the Michigan statute that specifically authorizes the more stringent rules OR a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. There are no federal rules or standards that regulate construction codes.

Purpose and Objectives of the Rule(s)

6. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

The Board of Mechanical Rules are being rescinded and the Skilled Trades, 2016 PA 407 has repealed the old act, the Forbes Mechanical Contractors Act, 1984 PA 192, MCL 338.971 to 338.988, and new rules are being promulgated pursuant to Act 407.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

The Board of Mechanical Rules are being rescinded and recodified in the Skilled Trades Regulation rules.

B. Describe the difference between current behavior/practice and desired behavior/practice.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. The current practice is inconsistent, whereas the desired practice will be consistent and will regulate the skilled trades in one place.

C. What is the desired outcome?

The repealed acts are outdated and do not provide uniform licensing, complaint investigation, and enforcement provisions for skilled trades licenses. This places a burden on the bureau administering these acts and creates an inefficient use of resources. The new rule set will provide uniform regulation of the skilled trades, as provided under the new Act, 2016 PA 407.

7. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. The harm will be the continuation of the inconsistencies in the regulation of the license trades. Likewise, the harm is the continuation of a lack of uniform regulations.

A. What is the rationale for changing the rules instead of leaving them as currently written?

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. The harm will be the continuation of the inconsistencies in the regulation of the license trades. Likewise, the harm is the continuation of a lack of uniform regulation.

8. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The Board of Mechanical Rules are being rescinded and recodified in the Skilled Trades Regulation rules. The rules that will be recodified in the Skilled Trades Regulation rules will be reviewed and updated to protect the health, safety, and welfare of Michigan citizens.

9. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

PA 407 of 2016 repealed the old act, The Forbes Mechanical Contractors Act, 1984 PA 192, and new rules are being promulgated due to PA 407. Because the Act was repealed, the bureau is rescinding the Board of Mechanical Rules License Examination Procedures and then will recodify those rules in anew rule set that will cover all licensing rules regulated under the Skilled Trades Regulation Act, including the mechanical rules.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

10. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

These rules are being rescinded so there is no fiscal impact on the agency.

11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. No agency appropriation has been made, nor has a funding source provided for any expenditures associated with the proposed rules.

12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

As stated above in question 6, the repealed act is outdated and does not provide uniform licensing, complaint investigation, and enforcement provisions for skilled trades licenses. This places a burden on the bureau administering these acts and creates an inefficient use of resources. Additionally, many licensees who are cross licensed in multiple trades have expressed dissatisfaction with conflicting provisions in separate statutes. The Skilled Trades Regulation Act, 2016 PA 407, streamlines the processes for all license types included, while providing for modernized provisions, such as electronic communication and third-party continuing education tracking options, and specifies violations for unlicensed activity as provided to other regulated professions. While the Skilled Trades Regulation Act repealed the five acts that regulated certain skilled trades, this new act includes provisions to regulate those same skilled trades. Consequently, the bureau is promulgating a new rule set to regulate these skilled trades, as provided under the new act. In addition, the bureau has submitted separate RFRs to rescind the current rules that were promulgated under the authority of the five acts that have been repealed.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

The current Board of Mechanical Rules License Examination Procedures will be rescinded, and the Bureau will promulgate a new rule set, the Skilled Trades Regulation rules- that will include the mechanical rules.

Impact on Other State or Local Governmental Units

13. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. There is no increase or decrease in revenues to other state or local governmental units as a result of these rules. There are no cost increases or reductions for such other state or local governmental units as a result of the rules. No cost of equipment, supplies, labor, or increased administrative costs.

14. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. There is no program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by these rules.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. There are no actions that governmental units must take to be in compliance with the rules.

15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. No appropriations to state or local governmental units have been made, nor has a funding source provided for any additional expenditures associated with the proposed rules.

Rural Impact

16. In general, what impact will the rules have on rural areas?

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. There will be no impact on rural areas.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. There are no public or private interests in rural areas that will be affected by the rules.

Environmental Impact

17. Do the proposed rules have any impact on the environment? If yes, please explain.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. The proposed rules will have no impact on the environment.

Small Business Impact Statement

18. Describe whether and how the agency considered exempting small businesses from the proposed rules.

These rules are being rescinded. The Bureau had a four-week period that licensees and stakeholders could propose a code change via the rules/code proposal form.

19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. Small businesses are not anticipated to be adversely affected by the changes.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. The Bureau does not expect that small businesses will be affected by these proposed rules.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. Because the rules apply to individuals who apply for licensure, it is not practical to establish differing compliance or reporting requirements or timetables for small businesses. Small businesses are not expected to be adversely affected by these rules. There are no additional reporting, record keeping, or other administrative costs associated with the implementation of the proposed rules.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. The compliance and reporting requirements are unchanged.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. There are no design or operation standards in the proposed rules.

20. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

With the repeal of the Forbes Mechanical Contractors Act, 1984 PA 192, the Board of Mechanical Rules License Examination Procedures have to be rescinded because they will be recodified in the Skilled Trades Regulation rules.

The new rules will have no disproportionate impact on small businesses because of their size or geographic location.

21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

There are no anticipated reports or increased costs to small businesses that are required to comply with the proposed rules. The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded.

22. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

Small businesses are not expected to be adversely affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs. The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded.

23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

There are no legal, consulting, or accounting services costs that small businesses would incur in complying with the proposed rules. The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded.

24. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

The Board of Mechanical Rules License Examination Procedures is being rescinded due to new rules being promulgated pursuant to PA 407. There are no additional costs or harm as a result of the act being rescinded.

25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

The Board of Mechanical Rules License Examination Procedures is being rescinded due to new rules being promulgated pursuant to PA 407.

26. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

The Board of Mechanical Rules License Examination Procedures rules are being rescinded and the new rules are needed to reflect the Skilled Trades Regulation Act. Small businesses are not exempt from either rule set. Therefore, there is no impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

The bureau involved small businesses through the new Skilled Trades Regulation Act rules review process. An email blast was sent out to stakeholders and licensees with a rule/code proposal form, giving them four weeks to get any rule changes submitted, and an advisory meeting was held with stakeholders and licensees invited. The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded.

A. If small businesses were involved in the development of the rules, please identify the business(es).

Licensees and stakeholders that the bureau has emails for were involved if they chose to be. The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded.

Cost-Benefit Analysis of Rules (independent of statutory impact)

28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

The rules are needed to reflect the Skilled Trades Regulation Act and will not result in any statewide compliance costs on businesses or groups.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

Businesses will not be directly affected by the proposed rules. The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

There will be no additional costs imposed on businesses or other groups as a result of the proposed rules. The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded.

29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

The Board of Mechanical Rules License Examination Procedures are being rescinded due to new rules being promulgated pursuant to PA 407.

A. How many and what category of individuals will be affected by the rules?

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. Businesses should not be directly affected by the proposed rules. If they are, the individuals that could be affected by these rescinded rules could be an estimated 2,000 mechanical contractors.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

The qualitative impact will ensure higher standards for an individual who is licensed in the skilled trades. There is no quantitative impact. The authority these rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded.

30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

There are no expected cost reductions to businesses, individuals, or groups of individuals as a result of the proposed rules. The authority these rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded.

31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

The primary benefit is uniform licensing, compliant investigation, and enforcement provisions for skilled trades licensees. The secondary benefit is higher quality licensee, citizens in Michigan will be better served, likewise fewer complaints will be investigated by the Bureau, which reduces staff costs.

32. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The Board of Mechanical Rules License Examination Procedures are being rescinded and will be recodified in the Skilled Trades Regulation rules which are needed to reflect the Skilled Trades Regulation Act. The proposed rules are not expected to have any adverse impact on business growth or job creation.

33. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. Individuals or businesses will not be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

34. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

The bureau relied upon bureau staff and rules/code proposal forms that the bureau received as the form asked for justification for the change or changes they are proposing, including determining the existence and extent of the impact of the proposed rules and the cost benefit analysis of these proposed rules.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

The authority the rules were promulgated under, the Forbes Mechanical Contractors Act, was repealed by the Skilled Trades Act, and so these rules are being rescinded. There were neither estimates or assumptions made.

Alternative to Regulation

35. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

There are no reasonable alternatives to the proposed rules that have been identified that would achieve the same or similar goals.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

No statutory amendments are necessary to achieve alternatives.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

Establishment of a regulatory program operating through private market-based mechanisms similar to the proposed rules would not be feasible, as licensing by the bureau is the primary obligation as required under the Act.

37. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

There were no significant alternatives presented for the Bureau to consider.

Additional Information

38. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

There are no instructions regarding the method of complying with the rules. The Board of Mechanical rules are being rescinded so there are no instructions for compliance.